

APPEAL NO. 041176  
FILED JULY 7, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case is back before us after our remand in Texas Workers' Compensation Commission Appeal No. 040143, decided March 15, 2004. We had remanded the case for the hearing officer, to address the issue of whether the second designated doctor was qualified to serve as a designated doctor in this case. On remand the hearing officer concluded that the second designated doctor was qualified to serve as the designated doctor and determined that the appellant (claimant herein) has a 12% impairment rating (IR) based upon the report of the second designated doctor. The claimant appeals, contending the hearing officer erred in finding that the second designated doctor was qualified to serve as a designated doctor in this case; that the hearing officer erred in finding that the appointment of a second designated doctor was appropriate; that the hearing officer erred in finding that the claimant's injury did not extend to include a myocardial infarction; and that the hearing officer erred in determining that the claimant's IR is 12%. The respondent (carrier herein) responds that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

We note that we affirmed the hearing officer's determinations that it was appropriate to appoint a second designated doctor and that the claimant's compensable injury did not extend to include a myocardial infarction in our decision in Appeal No. 040143, *supra*. We understand that the claimant is urging us to reconsider our decision in regard to these matters and wishes to preserve error if we decline to reconsider these matters. For the reasons set out in Appeal No. 040143, which we incorporate by reference into the present decision, we find no error as a matter of law in the hearing officer's determining in the present decision that it was appropriate to appoint a second designated doctor and in determining that the claimant's compensable injury did not include a heart attack and cardiovascular disease.

We had remanded the case based upon our decisions in Texas Workers' Compensation Commission Appeal No. 030737-s, decided May 14, 2003, and Texas Workers' Compensation Commission Appeal No. 031015, decided June 9, 2003. We had asked the hearing officer on remand to determine whether the claimant's injury was within the scope of practice of the second designated doctor. On remand the hearing officer determined that the claimant's injury was in the second designated doctor's scope of practice based upon the definition of that term in Advisory 2004-03, dated April 19, 2004. This determination is consistent with our decision in Texas Workers' Compensation Commission Appeal No. 040633-s, decided May 17, 2004. Based upon

this decision and the Advisory, we find no error in the hearing officer's determination that the claimant's injury was within the scope of practice of the second designated doctor.

Having found no error in the hearing officer's finding the appointment of the second designated doctor was proper and no error in his determination that the claimant's injury was within the scope of practice of the second designated error, it was not improper for the hearing officer to give presumptive weight to the second designated doctor's certification of IR or for the hearing officer to find that the claimant's IR was 12% based upon that certification.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Chris Cowan  
Appeals Judge